

Remarks by Cong. Henry A. Waxman
On the Receipt of the 2004 Public Service Award
From the International Foundation of Employee Benefit Plans
May 17, 2004

Introduction

First let me say what a pleasure and privilege it is to receive this award from you today. I have spent my career in Congress working for better health care for Americans. In my mind,

--that means health care coverage for all Americans, regardless of age or income or health status;

--that means affordable health care, with business and government able to buy high quality health care services at reasonable prices;

--that means assuring quality and efficiency in the health care system, and getting rid of medical errors;

--that means strong support for health care research, and assurance that science can move forward to find cures for diseases without the impediment of a political agenda that closes the door on promising areas of research;

--that means a strong and effective FDA that can assure the safety of our drugs, devices and foods;

--that means a strong CDC that can lead our public health efforts and assure good and effective prevention programs;

--that means a diverse health care work force that receives the training, benefits, and support they deserve;

--that means assuring our citizens of the privacy of their medical records.

In all of these areas, the challenges are daunting, and in too many ways, these things are more at risk today than ever before.

It is an honor to receive this award for my work in all of these areas. And it is a particular pleasure to receive it from an organization which has a long record of commitment to providing American employees and their families with health care benefits, and which uses the power of collective action to bring about this result.

The uninsured:

And it is really this issue of providing health care coverage for all Americans that I want to talk about today.

We have just concluded a week that was designated as Cover the Uninsured week. This was an effort lead by the Robert Wood Johnson Foundation, and numerous employer, provider, labor, consumer and insurance groups, to focus America's attention on the fact that we have nearly 44 million Americans uninsured at any point in time in this country, and millions more who are uninsured at some time during the year. They also wanted to focus attention on the fact that we have numerous ways that we know of and that are practical to bring them coverage.

And yet we seem to lack the political consensus—and the will—to act. We spend our public resources on tax cuts for the well off instead of providing health security to all of us throughout the income spectrum.

When you think about it, it is truly incredible that we would have to work to direct attention to the fact that there are so many uninsured. This is a daily and overwhelming fact of life for those 44 million Americans, to be sure. But it is also a fact of life that threatens every insured person who is in danger of losing coverage, or having their coverage reduced.

It threatens every person who approaches retirement, and fears he or she will retire without health care coverage until they reach the Medicare age—and even then, that they will have less adequate coverage than they had during their working life.

It threatens every business and union that faces high costs because they are paying through the back door for the \$42 billion cost of uncompensated care that results from having so many uninsured people.

You know, one very respected health care analyst said the other day that the reason we can't find the consensus to act to protect the uninsured is because at any given time some 85% of the population is insured.

Yet surely we have learned that all of us—insured and uninsured alike—pay the price for leaving so many Americans out of coverage. And all of us surely know that none of us are safe from finding ourselves uninsured at some point—when we lose a job, when our employer drops coverage, when we retire and lose benefits, when we have a severely disabled child who can't find insurance, when our employer can no longer afford to provide coverage—in so many instances, we are all vulnerable.

Protecting what we have:

There are a number of things we can do to expand coverage to groups that we know are at high risk of being uninsured, and want to talk about those in just a minute.

But I want to stress that we have to be certain in all the actions we take that we are helping to maintain and strengthen the coverage system we have now.

It is a fact of life in this country that most people get their health insurance where they work. This has tremendous advantages for individuals in getting their coverage, and they are advantages we have to protect.

All of you know this so well, I hardly need to restate it, but I will, briefly.

The kind of coverage you can get through employer based and Taft-Hartley plans means you can spread risk and assure people the advantage of a community rate, so the sickest don't find themselves uninsurable or without affordable coverage.

It means you have a unit bargaining for you to get better prices and to protect against excessive out-of-pocket expenditures.

It means you have someone working to assure access and quality in the plans. And it means you have someone who will work to get the benefits you need.

All of those functions are critical.

In my view, we in government need to be sure we take action to support this system.

First, we should be sure not to adopt policies which break down the concept of group coverage. I am appalled that two major prongs of the President's approach to health care would not only be inefficient in terms of reaching currently uninsured people, but would put the employer based system at risk, and result in a reduction in the availability of that kind of coverage.

The so-called association health plans, or AHPs, that this Administration favors would fracture the risk pool, raise insurance rates for many businesses trying to provide coverage, and undermine adequate coverage. They would take us back down the road that some of you may remember we traveled before with what we refer to as MEWAs.

Unlike your plans, which consistently deliver the benefits promised, many of the MEWAs were notorious for their failure to have consumer protections, for situations where businesses who paid them and persons who were supposed to be covered found that they disappeared without a trace, benefits weren't paid for, and employers and people who were supposed to have coverage were left paying the bill.

Of course it makes sense to have associations of small businesses—the Taft-Hartley plans are the perfect example of that. But you have the assurances and protections of a real association, in the form of your unions and a legally enforceable collective bargaining agreement, behind you to guarantee their viability. That makes all the difference.

Further, this Administration is determined to set individuals off alone in the health care market place. The Health Savings Accounts and other tax protected accounts are designed to break down the bargaining power of group coverage.

6

Under the guise of offering individuals a choice of what they want, they set them adrift in a world where negotiating power is critical to getting good affordable coverage.

Sending people into the inadequate individual health insurance market place runs totally counter to all we know we need to do to assure that individuals get affordable coverage. Setting up a system where you can get and afford the coverage *as long as you don't get sick* makes no sense at all. It undermines what insurance is supposed to be about—spreading the risk.

But HSAs have further insidious effects. They are designed to be linked to a high deductible catastrophic insurance plan. That means until the person hits the deductible, they are out there negotiating rates on their own.

Now what happens when that person need hospital care? We all know, and are concerned about, hospital practices where uninsured people face the highest prices because they have no one to negotiate for them. And there has been a lot of recent attention to give them fairer rates and more humane billing practices.

But is a higher income person who chooses to be without insurance coverage when they buy a high deductible plan also entitled to special discounts from hospitals and other health providers? That is certainly a harder question.

If we follow public policies where we tell people to go without coverage (which is what telling them to get a high deductible plan is doing), is it right to then ask the health care institution to give them the same rates that you are bargaining for on behalf of your employees and members? To me, it is not.

And lest you think this is only an academic concern, there are bills that have been introduced in the Congress right now that explicitly define the person with a high deductible plan as uninsured, regardless of their income.

Where is the sense in pursuing a health care policy that results in this strange situation? But of course, it does accurately reflect the fact that people who are supposed to be paying their health care costs out of their HSAs are in many ways just as powerless as the uninsured, because they do not have a group negotiating for them.

Drug prices

We in government should be trying to pursue policies that make your job of providing affordable coverage easier. And we should certainly be trying to help you get more affordable coverage.

One area where that need is obvious is in trying to get more affordable prescription drugs.

A few years back, I had my staff on the Government Reform Committee start examining the prices people paid for drugs here compared to what was paid in other countries or even paid by the Government here when it was willing to use its leverage to bargain, as they do in the VA.

I think the result shocked a lot of people. It was clear that people without drug coverage were paying the highest prices of all, and that seniors made up a large part of that group. I believe that focus helped to intensify the recognition that we needed to add a drug benefit to Medicare.

But I am extremely disappointed by the bill we ended up with. Not only did this Republican bill end up with an extremely inadequate and confusing drug benefit for seniors with large gaps in coverage, but it does not guarantee its availability, it does not guarantee its cost to the beneficiary, and it does not guarantee what drugs will be covered. Most egregious of all, the bill specifically denies the Secretary the ability to use the purchasing power of the 41 million Medicare beneficiaries to get lower prices.

Why should we not do what Canada does, and the European countries do, and Japan does—get better prices for our citizens.

And those prices should be available to everybody.

Because we let drug companies get away with the practice of charging American business, the American public, and the American government more than they charge in other countries, we end up with the highest prices in the world. This is wrong.

It is because this Administration is so opposed to directly bringing prices down that so many have increasingly turned to reimportation of drugs from Canada and other countries to get the advantage of better prices.

I have never thought that was the preferable way to address the issue, but it increasingly seems it is the only path available to us. That is why you see more and more members sponsoring and developing bills to make reimportation legal.

And just as an aside here, let me explain something, because I find many are confused on this point. How can reimportation of drugs be illegal, they ask, when it is so clearly happening? It's a good point.

The fact is the law does make it illegal, but as a practical matter, the law has not been enforced in cases of individuals who buy their drugs this way. So people are importing their drugs, but only because the FDA looks the other way. But as the practice has grown, they have increasingly threatened not to look the other way, but to stop it. It's no wonder people are confused.

So will we see a bill that does make reimportation legal pass this year? I think the chances are surprisingly good.

But I say that with two cautionary notes. First, the power of the drug companies with this Administration and this Republican Congress is enormous. They are enormous donors and fund raisers. They have an overwhelming lobbying presence. In some mark-ups, there are more lobbyists than members—and frequently they are people who are former staff of the Committees and the Members involved. So, in this Republican Congress, it is always hard to bet against them.

Second, they also can operate insidiously behind the scenes. It will be a pyrrhic victory if we pass a bill that leaves the drug companies free to limit their supplies of drugs to other countries so in the end there are not drugs available for reimportation. That is something we are going to have to watch very carefully.

What do we need to do:

But we obviously need to do more. We need to take some positive steps to reduce the number of the uninsured.

I wish, of course, that we could assure coverage for everyone. I chafe at the approach of taking a few incremental steps at a time, even though, in fact, I have had some real success in bringing coverage to people by using that approach. Some would say I'm famous for it.

Certainly I am proud that using that approach I was able to enact a requirement that all children below the poverty line would get Medicaid coverage.

But I am also realistic. At this time, with this budget deficit, with this Republican majority, we have to offer some more limited steps.

But when we do it, we have to make sure they are targeted to the uninsured who need help the most, and we have to be sure they shore up the existing system of public and private coverage, not undermine it, as I believe the President's approach does.

Recently in the House, we introduced some very important bills. One would expand the State Child Health Insurance Program by providing funding to cover parents. This is a group we know we can easily reach, and it would have the extra bonus of bringing in more eligible kids as well.

A second would allow buy-in to Medicare for person 55 to 64, a group which frequently loses their coverage and can't find or afford it elsewhere. It would also help defray the costs for early retirees where the employer is covering them.

The third would provide a time-limited tax credit to small businesses to purchase better coverage at more affordable rates, and set up some mechanisms to help them do that.

All of these bills can give significant help. And they are targeted to get the most bang for the buck, if you will. They spend the dollars where we know we can reach people effectively now. And they are all very similar to parts of the proposals that John Kerry has put forward.

I'm pleased you all had an opportunity to hear about the Kerry plan today. It's a powerful one. He has recognized that our full strategy must be both to cover people who are uninsured and to help businesses and unions who are now providing coverage so that they can maintain it. His plan to pick up the majority of the costs above \$50,000—to relieve you of the burden of the costs of catastrophic care, will mean an immediate benefit to you all.

It's a good and balanced approach. He has honed in on the problem, and shown the vision to deal with it.

I want to make one last point before I close, about a program which is near and dear to my heart. That is Medicaid. Medicaid is the program we have to provide coverage to poor families and kids, to the severely disabled, and to the elderly who need help to afford Medicare and who need services far beyond what it offers. It truly provides the coverage that the rest of our system does not. It is critical for millions of individuals, and the whole health care system.

It is fashionable in this Administration to attack Medicaid, and to try to get the Federal government out of its role as a partner in meeting the costs of this program.

On the surface, it may not seem to be your issue. But it is, it is. If this program is crippled, or turned into a limited block grant, millions more will be added to the rolls of the uninsured, and they will be the most difficult and costly cases.

You, the ones who provide coverage, will be stuck with the bill. Uncompensated care costs will grow, and those who provide insurance now will pay.

Surely there is a better way. Let's not claim to be moving forward to reduce the number of uninsured with one hand while destroying the program that has been most effective in covering the hard to cover right now. That is the Administration's philosophy, and it should be rejected for the sham that it is.

Conclusion:

As I said at the beginning, there are many areas where our health care system is in crisis. There are many other areas to be addressed. But certainly none can be more compelling than meeting what should be the goal of any humane society: providing health care coverage for all our people.

I thank you all for your contribution to that quest.